THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 15548 of 2007

Date:24-07-2007

Between:

Polepally Laxmaiah ..
PETITIONER

AND

The District Collector, Nalgonda and four others
..
RESPONDENTS

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ORDER:

The petitioner seeks a writ of mandamus to declare the action of the first respondent in issuing the proceedings No.251/07-B1 (Pancha), dated 09.07.2007, as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the Government Pleader for the respondents and the Standing Counsel appearing for the 4th respondent.

It is the case of the petitioner that he was elected as Sarpanch of Gudur Grampanchayat, Nalgonda District in the elections conducted in the year 2006 which was reserved under Scheduled Caste category which the petitioner belongs.

While so, on a complaint filed by Upa-sarpanch and Ward Members on 27.02.2007 the Divisional Panchayat Officer, Miryalaguda (for short 'DPO') asked to make an enquiry and submit a report. Accordingly, an enquiry was conducted and report was submitted. Based on the said report, a show cause notice, dated 09.04.2007 was issued for which the petitioner submitted his explanation. While considering the explanation, the District Collector passed the impugned order, dated 09.07.2007 stating that the charge No.1 was not proved; but the charge Nos.2 to 4 are proved. The charges were based on the remarks submitted by the DPO.

It is stated by the petitioner that the District Collector has not independently discussed any of the contentions raised in the explanation submitted by him. But, he has simply relied on the remarks submitted by the DPO. It is stated that neither the enquiry report nor the remarks submitted by the DPO have been supplied to

the petitioner and therefore, the said impugned order is illegal and against the principles of natural justice and contrary to the judgment of the Division Bench of this Court in **D. SATHI REDDY v. COMMISSIONER, PANCHAYAT RAJ, A.P. HYDERABAD AND OTHERS**[1].

It is stated that the petitioner filed statutory appeal under Section 249 of the A.P. Panchayat Raj Act, 1994 before the Commissioner of Panchayat Raj who is designated as Appellate Authority along with the application for grant of stay on 17.07.2007. But, the said appellate Authority has not considered and disposed of the said stay application.

As the petitioner filed statutory appeal before the Appellate Authority and having considered the facts of the case, I am of the opinion that it is just and proper to stay the impugned order pending disposal of the appeal as the impugned order goes to show that the District Collector has not furnished the enquiry report and the remarks submitted by the DPO and without discussing any of the contentions raised in the explanation, simply held that the charge Nos.2 to 4 are proved based on the remarks of the DPO.

Accordingly, the writ petition is disposed of staying the operation of the order of the 1st respondent-District Collector in Proceedings No.251/07-B (panchayat), dated 09.07.2007 pending disposal of the appeal before the 5th respondent. The 5th respondent is directed to consider and dispose of the appeal filed by the petitioner after giving reasonable opportunity to him, as expeditiously as possible. No costs.

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V.ESWARAIAH, J.

Date:24.07.2007

Note:

Issue operative portion of the order by wire at the party's cost.

B/O

ccm

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[1] 1999(5) ALD 681 (DB)